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11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ADAM GEORGE, an individual,

15 Plaintiff,

16 v.

17 MAG PUBLISHING, LLC, a California
18 limited liability company; VIDEO HILLS, a
19 business entity of form unknown; and DOES
20 1 through 10,

21 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT
2. VIOLATIONS OF THE
DIGITAL MILLENNIUM
COPYRIGHT ACT
(17 U.S.C. §1202)

Jury Trial Demanded

22 ADAM GEORGE, by and through his undersigned attorneys, hereby prays to
23 this honorable Court for relief based on the following:

24 **JURISDICTION AND VENUE**

25 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
26 *et seq.*

1 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
2 circumstances, including, but not limited to, full knowledge of each violation of
3 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

4 **CLAIMS RELATED TO USE OF PHOTOGRAPHIC IMAGE**

5 9. Plaintiff owns an original photograph ("Subject Work") that has been
6 registered with the United States Copyright Office.

7 10. Plaintiff is informed and believes and thereon alleges that following
8 GEORGE's creation of the Subject Work, Defendants, and each of them used the
9 Subject Work without Plaintiff's authorization for commercial purposes in various
10 ways, including, but not limited to, the use in articles and advertising on websites:

- 11 a. By MAG at <http://lendmemo.com/la-anyone-anywhere-anytime/>
12 b. By MAG at [http://springdaily.com/los-angeles-trending/la-anyone-](http://springdaily.com/los-angeles-trending/la-anyone-anywhere-anytime/)
13 anywhere-anytime/
14 c. By VIDEO HILLS at [http://www.video-hills.com/why-venice-beach-](http://www.video-hills.com/why-venice-beach-is-the-new-silicon-valley/)
15 is-the-new-silicon-valley/

16 11. An image of the Subject Work and an exemplar of the offending uses are
17 set forth hereinbelow:
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Subject Work



Exemplar of Offending Use



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

12. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

13. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Work, including, without limitation, through viewing the Subject Work on Plaintiff's website or viewing the Subject Work on a third-party websites (e.g., Tumblr, Pinterest, etc.).

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, used and distributed images of the Subject Work, and exploited said images in multiple website posts without Plaintiff's authorization or consent.

15. Due to Defendants', and each of their, acts of infringement, Plaintiff has suffered damages in an amount to be established at trial.

16. Due to Defendants', and each of their, acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained profits they would not otherwise have realized but for their infringement of the Subject Work. As such, Plaintiff is entitled to disgorgement of Defendants', and each of their, profits attributable to the infringement of Subject Work in an amount to be established at trial.

17. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff's rights such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious.

SECOND CLAIM FOR RELIEF

(For Violations of the Digital Millennium Copyright Act 17 U.S.C. §1202 – Against all Defendants, and Each)

18. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

19. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, violated 17 U.S.C. §1202(b) by intentionally removing and/or altering the copyright management information on the copy of at least one Subject Photograph (“Misabeled Copy”), and distributing copyright management information for the Misabeled Copy with knowledge that the copyright management information had been removed or altered without authority of the copyright owner or the law, and distributing and publicly displaying the Misabeled Copy, knowing that copyright management information had been removed or altered without authority of the copyright owner or the law, and knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that the conduct would induce, enable, facilitate, or conceal an infringement of any right under this title.

20. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, knowingly removed and altered the copyright management information on the Misabeled Copy.

21. The above conduct is in violation of the Digital Millennium Copyright Act and exposes Defendants, and each of them, to additional and enhanced common law and statutory damages and penalties pursuant to 17 USC § 1203 and other applicable law.

22. Plaintiff is informed and believes and thereon alleges that Defendants, and each of their, conduct as alleged herein was willful, reckless, and/or with knowledge, and Plaintiff resultantly seeks enhanced damage and penalties.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

Against All Defendants, and Each:

With Respect to Each Claim for Relief

- a. That Defendants, and each of them, as well as their employees, agents, or anyone acting in concert with them, be enjoined from infringing Plaintiff's copyrights in the Subject Photographs and Subject Work, including without limitation an order requiring Defendants, and each of them, to remove any content incorporating, in whole or in part, the Subject Photographs or the Subject Work from any print, web, or other publication owned, operated, or controlled by any Defendant.
- b. That Plaintiff be awarded all profits of Defendants, and each of them, plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants, and each of them, through their infringement, the exact sum to be proven at the time of trial, and, to the extent available, statutory damages as available under the 17 U.S.C. § 504, 17 U.S.C. §1203, and other applicable law.
- c. That a constructive trust be entered over any revenues or other proceeds realized by Defendants, and each of them, through their infringement of Plaintiff's intellectual property rights;
- d. That Plaintiff be awarded his attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- e. That Plaintiff be awarded his costs and fees under the statutes set forth above;
- f. That Plaintiff be awarded statutory damages and/or penalties under the statutes set forth above;
- g. That Plaintiff be awarded pre-judgment interest as allowed by law;

1 h. That Plaintiff be awarded the costs of this action; and

2 i. That Plaintiff be awarded such further legal and equitable relief as the
3 Court deems proper.

4 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
5 38 and the 7th Amendment to the United States Constitution.

6 Respectfully submitted,

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8 Dated: August 14, 2017

By: /s/ Stephen M. Doniger
Stephen M. Doniger, Esq.
Frank Gregory Casella, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff